

March 18, 2009

**OFFICE OF THE HEARING EXAMINER  
KING COUNTY, WASHINGTON**

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**REPORT AND RECOMMENDATION TO THE METROPOLITAN KING COUNTY COUNCIL**

SUBJECT: King County Department of Transportation File No. **V-2549**  
Proposed Ordinance No. **2008-0456**  
Parcel No. **510540-0155, 102206-9159**

**BEVERLY AND MICHEAL TONDA**

Road Vacation Petition

Location Address: 227th Place Southeast (dedicated as Martin Avenue)

Petitioners: **Beverly and Micheal Tonda**  
21680 – 227th Place Southeast  
Maple Valley, Washington 98038  
Telephone: (425) 413-9375  
E-mail: [ourloghome@msn.com](mailto:ourloghome@msn.com)

King County: Department of Transportation (KDCOT)  
Road Services Division  
*represented by* **John Briggs**, Sr. Deputy Prosecuting Attorney  
King County Prosecuting Attorney's Office  
516 Third Avenue, Room W400  
Seattle, Washington 98104  
Telephone: (206) 296-9015  
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and

Nicole Keller and Kelly Whiting  
KCDOT  
201 South Jackson Street  
Seattle, Washington 98104-3856  
Telephone: (206) 296-3731  
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E-mail: [nicole.keller@kingcounty.gov](mailto:nicole.keller@kingcounty.gov)

**SUMMARY OF RECOMMENDATIONS:**

Department's Preliminary:	Approve road vacation
Department's Final:	Approve road vacation
Examiner's:	Approve road vacation

**DEPARTMENT'S REPORT:**

The Department of Transportation's written report to the Hearing Examiner for Item No. V-2549 was received by the Examiner on September 10, 2008.

**PUBLIC HEARING:**

After reviewing the Department's Report and examining available information on file with the petition, the Examiner conducted a public hearing on the subject right-of-way vacation as follows:

The hearing on Item No. V-2549 was opened by the Examiner on January 12, 2009, in the Rainier Conference Room, King County Courthouse, 516 Third Avenue, Fifth Floor, Room W554, Seattle, Washington and closed that day. Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the Hearing Examiner.

**FINDINGS, CONCLUSIONS & RECOMMENDATION:** Having reviewed the record in this matter, the Examiner now makes and enters the following:

**FINDINGS:****1. General Information:**

Road name and location:	Portion of 227th Place SE
Right of way classification:	B-Class
Area:	2,738 square feet
Compensation:	\$576.01

2. Notice of hearing on the Department's report was given as required by law, and a hearing on the report was conducted by the Examiner on behalf of the Metropolitan King County Council.
3. Except as provided herein, the Examiner adopts and incorporates herein by this reference the facts set forth in the Department's report to the Examiner for the January 12, 2009, public hearing and the statement of facts contained in Proposed Ordinance No. 2008-0456. The Department's report will be attached to those copies of this report and recommendation that are submitted to the King County Council.
4. Maps showing the vicinity of the proposed vacation and the specific area to be vacated are in the hearing record as exhibit nos. 6 and 12.
5. Though at one time the subject right-of-way segment was opened for public use, and public funds had been expended in the past for operation of the right-of-way, the segment is not currently opened, constructed or maintained for public use, and is not known to be used informally for access to any property. By appearance, it is an extension of the grounds of Petitioners' abutting property.

6. The right-of-way is not necessary for the present or future public road system for travel or utilities purposes.
7. Vacation of the right-of-way would have no adverse effect on the provision of access and fire and emergency services to the abutting properties and surrounding area.
8. No utility facilities are presently located within the right-of-way segment. No easements are necessary to be retained for the construction, repair and maintenance of public utilities and services.
9. There are no relevant historic preservation issues which bear on consideration of this right-of-way vacation.<sup>1</sup> The accessibility issues relating to possible historic preservation value of the Petitioners' abutting property (on which they claim historic resource/landmark presence) would not be affected by this vacation. The Petitioners are at present the sole parties expressing historic preservation value of their property, and maintaining any desired accessibility over the subject segment would be fully within the power of the Petitioners in their private ownership (upon assumption of the vacated right-of-way).
10. The compensation required by law to be paid as a condition precedent to vacation of this road has been deposited with King County.

CONCLUSION:

1. The right-of-way segment subject to this petition is not useful as part of the King County road system, and the public will be benefited by its vacation.

RECOMMENDATION:

APPROVE proposed Ordinance No. 2008-0456 to vacate the subject road right-of-way.

RECOMMENDED March 18, 2009.

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Peter T. Donahue  
King County Hearing Examiner

**NOTICE OF RIGHT TO APPEAL  
AND ADDITIONAL ACTION REQUIRED**

In order to appeal the recommendation of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) *on or before April 1, 2009*. If a notice of appeal is filed, the original and six copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council *on or before April 8, 2009*.

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<sup>1</sup> Distinguishable from the abutting proposed *Southworth* right-of-way vacation (petition file V-2618), which at one time was set for concurrent hearing with the subject petition, but was then bifurcated for separate consideration.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 Third Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within 14 days calendar days of the date of this report, or if a written appeal statement and argument are not filed within 21 calendar days of the date of this report, the Clerk of the Council shall place a proposed ordinance which implements the Examiner's recommended action on the agenda of the next available Council meeting. At that meeting, the Council may adopt the Examiner's recommendation, may defer action, may refer the matter to a Council committee, or may remand to the Examiner for further hearing or further consideration.

Action of the Council Final. The action of the Council on a recommendation of the Examiner shall be final and conclusive unless within 21 days from the date of the action an aggrieved party or person applies for a writ of certiorari from the Superior Court in and for the County of King, State of Washington, for the purpose of review of the action taken.

#### MINUTES OF THE JANUARY 12, 2009, PUBLIC HEARING ON DEPARTMENT OF TRANSPORTATION, ROAD SERVICES DIVISION FILE NO. V-2549.

Peter T. Donahue was the Hearing Examiner in this matter. Participating in the hearing were Nicole Keller representing the Department and Beverly and Micheal Tonda the Petitioners.

The following exhibits were offered and entered into the record:

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|----------------|---|
| Exhibit No. 1  | Report to the Hearing Examiner for the October 1, 2008 hearing (later rescheduled to January 12, 2009), with 15 attachments.                      |
| Exhibit No. 2  | Petition transmittal letter, dated January 19, 2006 to King County Department of Transportation (KCDOT), from Clerk of the Council                |
| Exhibit No. 3  | Cover letter to petition for vacation of a County road including legal descriptions of petitioners' properties                                    |
| Exhibit No. 4  | Petition for vacation of a County road not including legal descriptions of petitioners' properties and standard petitioner form                   |
| Exhibit No. 5  | Receipt no. 766 for filing fee  |
| Exhibit No. 6  | Vicinity map  |
| Exhibit No. 7  | Plat map of Maple Valley recorded in 1890   |
| Exhibit No. 8  | Map depicting vacation area as petitioned on January 19, 2006   |
| Exhibit No. 9  | Letter from KCDOT to petitioners informing them that their petition is put on hold and requesting a revised legal description dated March 7, 2006 |
| Exhibit No. 10 | Letter from King County Prosecuting Attorney's Office with new petition form attached, including a new legal description dated November 30, 2007  |
| Exhibit No. 11 | Revised petition for vacation of a County road submitted February 5, 2008   |
| Exhibit No. 12 | Map depicting vacation area as petitioned on February 5, 2008   |
| Exhibit No. 13 | Letter from KCDOT to petitioners notifying them that petitioner is no longer on hold and initial compensation estimate                            |
| Exhibit No. 14 | Final Agency Notice sent April 29, 2008   |
| Exhibit No. 15 | Recommendation and request for compensation letter from KCDOT to Petitioners  |
| Exhibit No. 16 | Compensation Worksheet  |

Exhibit No. 17	Copy of compensation payment, check no. xx in the amount of \$576.01
Exhibit No. 18	Recommendation letter from KCDOT to KC Council
Exhibit No. 19	Proposed Ordinance transmittal letter from KCDOT to KC Council
Exhibit No. 20	Proposed Ordinance 2008-0456
Exhibit No. 21	Fiscal Note
Exhibit No. 22	Affidavit of Posting for October 1, 2008 hearing (cancelled), dated August 28, 2008
Exhibit No. 23	Affidavit of Publication for October 1, 2008 hearing (cancelled), dated September 26, 2008
Exhibit No. 24	Affidavit of Posting, dated December 17, 2008
Exhibit No. 25	Affidavit of Publication for January 12, 2009 hearing, dated January 8, 2009
Exhibit No. 26	Petitioner letter to neighbors regarding the pending road vacation petition, dated January 4, 2009

PTD:vsm

V-2549 RPT